

THE HONORABLE LAUREN KING

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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE WESTERN DISTRICT OF WASHINGTON**
9 **AT SEATTLE**

10 NINTENDO OF AMERICA INC., a
11 Washington Corporation,

12 Plaintiff,

13 v.

14 JAMES C. WILLIAMS a/k/a ARCHBOX, an
15 individual,

16 Defendant.

CASE NO. 2:24-CV-00960-LK

**DECLARATION OF JAMES D.
BERKLEY IN SUPPORT OF
PLAINTIFF'S SUPPLEMENTAL BRIEF
REGARDING REQUEST FOR CLERK'S
ENTRY OF DEFAULT**

17 I, James D. Berkley, declare as follows:

18 1. I am an attorney-at-law, duly licensed to practice law in the State of California. I
19 am Special Counsel at the law firm of Mitchell Silberberg & Knupp LLP ("MSK"), attorneys of
20 record for Plaintiff Nintendo of America Inc. ("Nintendo"). I make this Declaration in support of
21 Nintendo's Request for Default against Defendant James C. Williams a/k/a Archbox
22 ("Defendant"). I have personal knowledge of the following facts and, if called and sworn as a
23 witness, could and would competently testify thereto.

24 2. MSK was retained by Nintendo in 2023 to assist with efforts to investigate and
25 enforce its rights against individuals involved in the online distribution of games for the Nintendo
26 "Switch" platform via what are known as "freeshops." Freeshops are infringing online
27 repositories of Nintendo games that can be accessed and downloaded by members of the public, in

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DECLARATION OF JAMES D. BERKLEY
Case No. 2:24-CV-00960-LK

LOWE GRAHAM JONES PLLC


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Seattle, Washington 98101
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1 violation of Nintendo's rights under the Copyright Act and the express terms of Nintendo's End
 2 User License Agreement. As addressed in the Complaint in this action, popular Freeshops have
 3 included (among others) those known as "Turtle-in-the-Shop," "Jack-in-the-Shop," and "Libera
 4 Shop," each of which has been managed (in whole or in part) or has been otherwise affiliated with
 5 and/or promoted by an individual using the online pseudonym "archbox."

6 3. As part of my role as counsel for Nintendo, I have been involved in investigating
 7 and confirming the identity, address, and location of "archbox." Based on comprehensive
 8 investigation, including analysis of this individual's online accounts and social media posts, it was
 9 concluded prior to 2024 that "archbox" resided in the Phoenix, Arizona area and had attended
 10 Midwestern University (which I understand has a campus in Glendale, Arizona) in or around
 11 2012. For example, on or about May 6, 2015, the same "archbox" account posting to the
 12 "SwitchPirates" community on Reddit (using the same avatar of a turtle) posted to a community
 13 named "/r/phoenix" to state that "Midwestern University has an optometry clinic that is very good.
 14 You get examined by a student and then by the doctor...." A true and correct copy of that post,
 15 preserved by me from the website Reddit.com, is attached hereto as **Exhibit 1**.

16 4. As set forth in the accompanying Declaration of Ivan Avila Campillo, in or about
 17 February 2024, Nintendo was able to identify "archbox" as James Williams of Surprise, Arizona,
 18 and confirmed the existence of Nintendo account records connected with Mr. Williams.
 19 Determined to be associated with Williams were an address at 17557 W Villa Chula Lane,
 20 Surprise, Arizona 85387 (the "Surprise Address"), and an email address at
 21 james.williams.az@gmail.com.

22 5. On March 26, 2024, I caused to be sent a cease and desist letter to Defendant on
 23 behalf of Nintendo (the "March 26, 2024 C&D Letter"). The letter, which listed the Surprise
 24 Address in its heading, was sent by e-mail to addresses including james.williams.az@gmail.com
 25 and also via FedEx Priority Overnight shipping, with direct signature required for delivery. The
 26 copy sent by FedEx was addressed to James C. Williams at the Surprise Address.

27 6. On March 27, 2024, members of the MSK office working under my direction
 28 obtained a FedEx Proof of Delivery document for the March 26, 2024 C&D Letter, indicating that

1 it was delivered on that date to the Surprise Address. The Proof of Delivery further indicates that
 2 the letter was signed for by “J.WILLIAMS,” and includes a copy of the recipient’s signature. A
 3 true and correct copy of this FedEx Proof of Delivery, which includes other details of the mailing,
 4 is attached hereto as **Exhibit 2**. .

5 7. On March 31, 2024, I received a response email (sent to my MSK email account at
 6 jdb@msk.com) from Mr. Williams, sent from the email address james.c.williams.us@gmail.com.
 7 A true and correct copy of this email is attached hereto as **Exhibit 3**. The email stated that it
 8 included an “attached response confirming receipt and cooperation with [Nintendo’s] March 26th,
 9 2024 letter.” In this response, Mr. Williams claimed (but with caveats) that he would “comply and
 10 cooperate with any demands or requests . . . within [his] control.”

11 8. Between April 4, 2024 and May 10, 2024, I engaged in an extensive email
 12 exchange with Williams in follow-up to his March 31, 2024 email concerning the activities
 13 alleged in the later-filed Complaint. However, Mr. Williams ultimately would not agree to
 14 cooperate or comply with Nintendo’s demands.

15 9. As set forth in the Declaration of Ivan Avila Campillo, I further understand that
 16 Defendant has filled out Nintendo repair requests using the Surprise Address, including a request
 17 also associated with the email address “james.williams.az@gmail.com” (an address to which the
 18 March 26, 2024 C&D Letter was sent). I also understand that the most recent of these requests
 19 involved a shipment made to the Surprise Address on or about March 25, 2024.

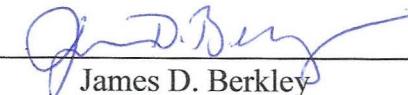
20 10. On October 24, 2024, following the Court’s Order requesting supplemental
 21 briefing, I performed a search for a James C. Williams in Arizona on the website
 22 [fastpeoplesearch.com](https://www.fastpeoplesearch.com), which returned a public records profile. A true and correct copy of relevant
 23 pages from this profile, printed by me from the URL https://www.fastpeoplesearch.com/james-williams_id_G8039573108915007176, is attached to this declaration as **Exhibit 4**, with certain
 24 phone number information partially redacted. This profile indicated that James C. Williams, aged
 25 33, resided at 17557 W Villa Chula Lane, Surprise, AZ 85387.

27 11. At my direction, on November 6, 2024, an MSK research librarian ran and
 28 provided to me results from a public record search on Westlaw for James C. Williams. I

1 understand that the use selected for this search was “for use in connection with a civil, criminal, or
2 arbitral legal proceeding or legal research.” The search returned a report titled “People Finder –
3 Historic Tracker Record,” which stated that through September 30, 2024, the last known address
4 of James C. Williams, born in 1991, was 17557 W Villa Chula Ln, Surprise, AZ 85387-4003. A
5 true and correct copy of this report, partially redacting birth date information and a listed phone
6 number, is attached hereto as **Exhibit 5**.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct to the best of my knowledge, information, and belief.

9 Executed on November 7, 2024, at Los Angeles, California.

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James D. Berkley

EXHIBIT 1

 archbox • 8 yr. ago

Midwestern University has an optometry clinic that is very good. You get examined by a student and then by the doctor it's almost like buy one get one free! and great prices all around. My contacts ended up being free after the rebate card that they gave me came in.

 4   Reply  Share 

EXHIBIT 2

Dear Customer,

The following is the proof-of-delivery for tracking number: 272664013436

Delivery Information:

Status:	Delivered	Delivered To:	Residence
Signed for by:	J.WILLIAMS	Delivery Location:	17557 W VILLA CHULA LN
Service type:	FedEx Priority Overnight		
Special Handling:	Deliver Weekday; Residential Delivery; Direct Signature Required		SURPRISE, AZ, 85387
		Delivery date:	Mar 27, 2024 10:33

Shipping Information:

Tracking number:	272664013436	Ship Date:	Mar 26, 2024
		Weight:	0.5 LB/0.23 KG

Recipient:

James C. Williams,
17557 W VILLA CHULA LN
SURPRISE, AZ, US, 85387

Shipper:

J. BERKLEY, Mitchell Silberberg & Knupp LLP
2049 Century Park East
18th Floor
Los Angeles, CA, US, 90067

Reference

51135-00012-00360

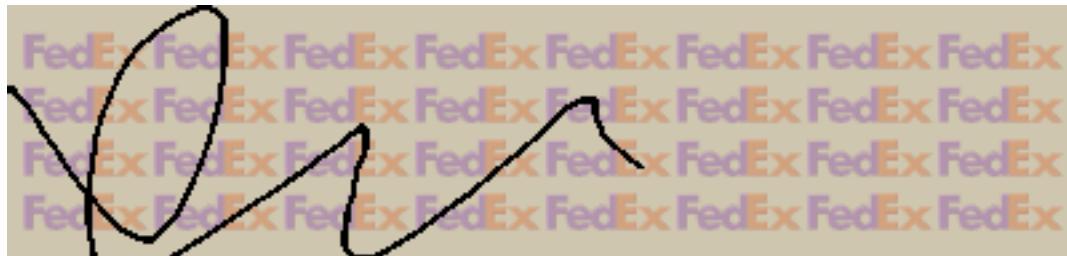


EXHIBIT 3

Berkley, James

From: James Williams <j.james.c.williams.us@gmail.com>
Sent: Sunday, March 31, 2024 9:47 PM
To: Berkley, James
Subject: [EXTERNAL] Letter to James Williams regarding the Intellectual Property Rights of Nintendo of America Inc.
Attachments: JamesWilliams(Signed).pdf

Mr. Berkley,

Please see the attached response confirming receipt and cooperation with your March 26th, 2024 letter. I remain at your disposal for any further information that can assist with the protection of your client's rights.

Thank you,

James Williams

EXHIBIT 4



Search for...



Search / People / W / Williams / James Williams / AZ / Surprise

James Williams in Surprise, AZ (Arizona)

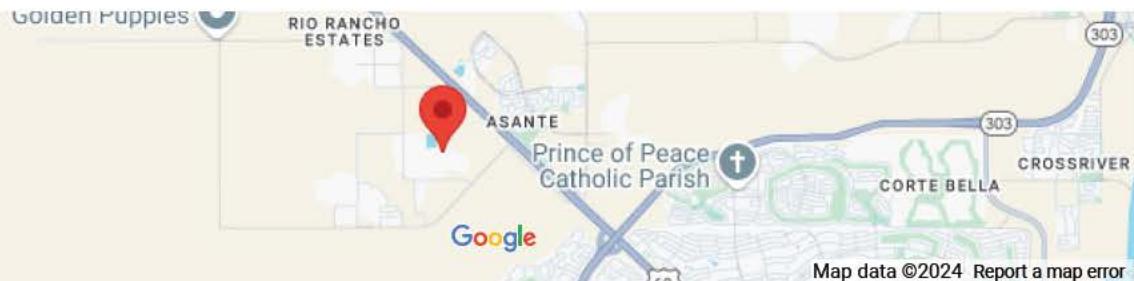
Age 33

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Current Address (Since October 2022)

17557 W Villa Chula Ln**Surprise AZ 85387**

Maricopa County

3 Beds | 2.5 Bath | 1,581 SqFt. | Built in 2020Estimated Value
\$395,000Estimated Equity
\$395,000Last Sale Amount
\$257,707Last Sale Date
2020-11-11[View larger map](#)

Map data ©2024 Report a map error

Streamline Property Owner Info Search and List Building

Search over 157 Million MLS and Public Record Properties. [PropertyReach 7 Day FREE Trial!](#)**Full Name:****James C Williams**

Full Background Report (Sponsored)

- Current & Past Contact Info

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- Properties & Assets
- Public Records

- Criminal Records
- Court Records
- State & County Records
- Bankruptcies, Judgements, Liens

[VIEW FULL BACKGROUND REPORT](#)

Phone Numbers for James Williams in Surprise, AZ

(623) [REDACTED] [REDACTED]

Landline

Bandwidth.com CLEC LLC - AZ

First reported November 2013

(623) [REDACTED]

Wireless

Cellco Partnership dba Verizon Wireless - AZ

First reported November 2011

(623) [REDACTED]

Wireless

MetroPCS Inc

First reported August 2013

(623) [REDACTED]

Landline

Qwest Corporation

First reported December 2010

James Williams

Surprise, AZ

Age 33

[VIEW DETAILS](#)

Sponsored By TruthFinder.com

James Williams

Surprise, AZ

Age 33

[VIEW DETAILS](#)

Sponsored By Spokeo.com

James Williams

Surprise, AZ

Age 47

[VIEW DETAILS](#)

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James Williams

Surprise, AZ

Age 33

[VIEW DETAILS](#)

Sponsored By PeopleFinders.com

@ Email Addresses

for James Williams in Surprise, AZ

jameswilliamsaz@gmail.com
arizonasix@yahoo.com
arizona6@cox.net
ffxjames@gmail.com

Also Known As

James Williams
James Christopher Willliams

Sponsored Link

Current Address Property Details

17557 W Villa Chula Ln

Surprise AZ 85387

Maricopa County

Bedrooms
3

Bathrooms
2.5

Square Feet
1,581

Year Built
2020

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\$257,707

2020-11-11

Occupancy Type
Non-Owner Occupied

Ownership Type
Corporate

Land Use

Property Class

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X Y Z

Phone Directory: 1 2 3 4 5 6 7 8 9

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EXHIBIT 5

People Finder - Historic Tracker Record

Source Information

Information Current Through: 09/30/2024
Database Last Updated: 10/04/2024
Update Frequency: MONTHLY
Current Date: 11/06/2024
Source: TRANS UNION

Last Known Address Information

Current Address: 17557 W VILLA CHULA LN SURPRISE, AZ 85387-4003
Phone Number 1: 623-[REDACTED]
Address First Reported: 11/15/2023

Individual Information

Name: WILLIAMS, JAMES C
Also Known As: WILLIAMS, JAMES
WILLIAMS, JAMES M
Date of Birth: [REDACTED] 1991
On File Since: 04/18/2016

Other Address Information

Previous Address: 3805 E IRONWOOD DR PHOENIX, AZ 85044-8218
Address First Reported: 05/31/2021
Previous Address: 7616 S 26TH WA PHOENIX, AZ 85042-7042
Address First Reported: 04/18/2016
Previous Address: 6161 W McDOWELL RD 2144 PHOENIX, AZ 85035-4896
Address First Reported: 04/18/2016

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